



STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF
STATE PLANNING COORDINATION

June 21, 2004

Mr. Dan McGreevy
Canal Place, LLC
4260 Highway One, Ste. 6
Rehoboth Beach, DE 19971

RE: PLUS review – PLUS #2004-05-13 – Canal Place

Dear Mr. McGreevy:

Thank you for meeting with State agency planners on June 2, 2004 to discuss the proposed plans for the Canal Place project to be located west of Erie Avenue and east of White's Creek.

According to the information received, you are seeking a conditional use and site plan approval for 89 single family detached units on 12.1 acres. It should be noted that this parcel is currently a mobile home park.

Please note that changes to the plan, other than those suggested in this letter, could result in additional comments from the State. Additionally, these comments reflect only issues that are the responsibility of the agencies represented at the meeting. The developers will also need to comply with any Federal, State and local regulations regarding this property. We also note that as Sussex County is the governing authority over this land, the developers will need to comply with any and all regulations/restrictions set forth by the County.

This office has received the following comments from State agencies:

Office of State Planning Coordination – Contact: Ann Marie Townshend

This site is located in the Environmentally Sensitive Developing Area according to the 1999 Strategies for State Policies and Spending and the Sussex County Comprehensive Plan. The draft 2004 update of the Strategies for Policies and Spending, endorsed by the Cabinet Committee on State Planning Issues, reflects this site (with the exception of the canals on the site) as Level 3, where the State supports long-term phased development

with sensitivity to environmental and agricultural issues on and around the site. In this case, the Level 3 designation is a reflection of the environmental issues, specifically the wetlands, canals, and proximity to White's Creek.

We note that this project is the redevelopment of an old mobile home park. In general, the State supports redevelopment of previously developed sites such as this. However, we acknowledge that there are issues with Sussex County regarding the density at which the redevelopment would take place. We understand that the developer is requesting a conditional use to be able to build multiple family, condominiums in the General Residential District.

We note that the developer is requesting the same number of units currently present, although the current mobile home park is a non-conforming use in the GR district. We would encourage the developer to work with the County (as reflected in the comments from Sussex County below) to pursue a zoning category that would bring the site into conformity with the zoning ordinance, rather than perpetuating non-conformity. We also would note that because of some of the environmental issues on this site, the developer may want to reconsider the density at which it should be redeveloped.

Department of Transportation – Contact: Bill Brockenbrough 760-2109

Because the change from mobile homes to single-family detached houses would constitute a change in use, DelDOT would require that the developer obtain a new entrance approval. Because the number of units would not change, DelDOT does not expect to require entrance improvements but the entrance does need to be re-examined. The applicant's engineer should contact our Subdivision Manager for Sussex County, Mr. John Fiori, in this regard. Mr. Fiori may be reached at (302) 760-2260.

DelDOT does agree with Mr. Robert Ehemann from the Division of Parks and Recreation, and recommend that the possibility of a bicycle and pedestrian connection to the condominium project being developed just east of this site be explored.

The Department of Natural Resources and Environmental Control – Contact: Kevin Coyle 739-3091

Soils

According to the soil survey update, Brockatonorton-Urban Land complex was mapped in the immediate vicinity of the proposed project.

Brockatonorton-Urban Land complex is a moderately well-drained soil that has been degraded by land clearing, filling, and grading activities; development limitations are dependent on site specific variations of disturbance. Most of the disturbance impacts are likely to be associated with soil compaction affects, including; reduced soil permeability, increased surface runoff, and other deviations from the native hydrology. **Therefore, it is highly recommended that hydraulic conductivity tests be conducted by a licensed**

soil scientist to assess the actual extent of soil compaction at this site. This information may also prove useful in the stormwater design process.

Further, given that the soils are in the immediate proximity to the Inland Bays, this parcel is subject to the affects of water table fluctuations because of tidal variations. It is highly recommended that a licensed soil scientist assess and document the depth to a seasonal high water table (via wells) on the basis of expected tidal ranges.

Wetlands

According to Statewide Wetland Mapping Project (SWMP) maps, this parcel contains estuarine unconsolidated bottom (tidally-influenced) wetlands.

It should be noted that tidal wetlands are regulated and/or protected somewhat more stringently than nontidal wetlands – regulatory jurisdiction falls under the Chapter 66 provisions of the State of Delaware’s Tidal Wetlands Regulations. **The Wetlands and Subaqueous Section of the Division of Water Resources should be contacted for regulatory questions pertaining to tidal wetlands on this parcel. They can be reached at 739-4691.**

It is also recommended that the developer improve habitat from landward edge of all wetlands.

The developer may wish to obtain a permit to construct a low profile rock sill to protect the eroding tidal *S. alterniflora* wetlands fronting on White Creek. The wetlands provide an amenity to the proposed community and installing the sill now, will likely be less expensive than the cost of protecting or stabilizing the shoreline after the wetlands are lost to erosion.

ERES Waters

This project is located adjacent to receiving waters of Inland Bays designated as waters having Exceptional Recreational or Ecological Significance (ERES). ERES waters are recognized as special assets of the State, and shall be protected and/ or restored, to the maximum extent practicable, to their natural condition. Provisions in Section 11.5 of Delaware’s “Surface Water Quality Standards” (as amended August 11, 1999), specify that all designated ERES waters and receiving tributaries develop a “pollution control strategy” to reduce non-point sources of nutrient runoff through implementation of Best Management Practices (BMPs). Best Management Practices as defined in subsection 11.5(e) of this section, expressly authorizes the Department to provide standards for controlling the addition of pollutants and reducing them to the greatest degree practicable, or where attainable, a standard requiring no discharge of pollutants.

TMDLs

With the adoption of Total Maximum Daily Loads (TMDLs) as a “nutrient-runoff-mitigation strategy” for reducing nutrients in the Inland Bays Watershed, reduction of nitrogen and phosphorus loading will be mandatory. A TMDL is the maximum level of pollution allowed for a given pollutant below which a “water quality limited water body” can assimilate and still meet water quality standards to the extent necessary to support use goals such as, swimming, fishing, drinking water and shell fish harvesting. Although TMDLs are authorized under federal code, states are charged with developing and implementing standards to support those desired use goals. The Jurisdictional authority for attaining these use goals will fall under the auspices of Section 11.5 of the State of Delaware’s Surface Water Quality Standards (as amended August 11, 1999), and will be achieved via nutrient reductions referred to as “pollution control strategies.”

Nutrient reductions prescribed under TMDLs are assigned on basis of water quality concerns – that is, the those regions deemed to be of greatest environmental concern will require correspondingly higher levels of nutrient reduction than those regions deemed less environmentally sensitive. In this watershed, these regions are demarcated as high and low reduction zones. The high reduction zone corresponds to the western portion of the watershed, and requires a reduction of nitrogen and phosphorus by 85 and 65 percent, respectively. The low reduction zone corresponds to the eastern portion of the watershed, and requires a reduction of nitrogen and phosphorus by 40 percent. **This project is proposed within the low nutrient reduction zone.**

The increase in imperviousness of this proposed redevelopment is of considerable concern because the location of this project. The developer is proposing to almost double the impervious cover; consequently, BMPs should be designed on and off site to mitigate this adverse impact.

Buffers

Dead-end canals can have serious water quality problems, which stem from increased nutrient inputs and lack of flushing. To proactively address potential problems, the developer is strongly encouraged to set forth no-mow buffer zones along the existing dead-end canals to help alleviate sedimentation and eutrophication from homeowner activities.

Stormwater Management

The applicant is encouraged to contact the Sussex Conservation District stormwater program (302) 856-7219, Jessica Watson, as soon as possible for a pre-application meeting. The use of “Green Technology” stormwater practices is encouraged as well, and DNREC is available to provide technical assistance for this project. Contact DNREC Sediment and Stormwater at (302) 739-4411.

Floodplain

Portions of this site lie within a 100-year floodplain.

Boat Facilities

The developer may want to contact the Wetlands and Subaqueous Lands Section about replacing the hodge-podge of docks that are more or less randomly sized and distributed in the lagoons with docks constructed to minimize navigation problems and improve upon the aesthetic qualities of the lagoons. The developer is encouraged to limit individual docks and piers through deed restrictions or other mechanisms and instead utilize the proposed boat ramp as the sole boating access for the community.

Improvements to the existing boat ramp may need to obtain approvals through the DNREC Wetlands and Subaqueous Lands section, the U.S. Army Corps of Engineers and the DNREC Coastal Programs Section.

If the Assawoman Canal is dredged, there will be increased boat traffic in the canal. The location of the existing boat launch in the proposed development is likely to experience boat traffic congestion. It may become difficult to launch boats from this site. Consideration should be given to utilizing another cul-de-sac to avoid the high traffic area.

Recreation

The Division of Parks and Recreation recommends that sidewalks be built fronting every residence. A complete system of sidewalks will: 1) fulfill the recreation need for walking and biking facilities 2) provide opportunities for neighbors to interact in the community and 3) facilitate safe, convenient off-road access to neighboring communities, public mass transit stops, schools, stores, work etc.

The Division also recommends exploring the opportunity for bicycle/pedestrian connections to the developing property to the north.

Habitat

A population of *Apeltes quadracus* (fourspine stickleback) is found within the White Creek System. This species is dependent on calm, shallow, heavily vegetated waters for its habitat. Measures should be taken to avoid impacts to submerged aquatic vegetation and to decrease downstream sedimentation during construction.

DNREC requests that no invasive species be used in the revegetation of disturbed areas. A list of species considered invasive in Delaware can be found on the DNHP web site, <www.dnrec.state.de.us/fw/invasive.htm>. We further recommend the use of native plants and our botanist, Bill McAvoy can be contacted at (302) 653-2880 to assist you in developing a plant list.

Underground Storage Tanks

There are no LUST sites located near the proposed project. However, should any underground storage tank or petroleum contaminated soil be discovered during construction, the Tank Management Branch must be notified as soon as possible. It is not anticipated that any construction specifications would be need to be changed due to petroleum contamination. However, should any unanticipated contamination be encountered and PVC pipe is being utilized, it will need to be changed to ductile steel in the contaminated areas.

State Fire Marshal's Office – Contact: Kevin McSweeney 739-3696

These comments are intended for informational use only and do not constitute any type of approval from the Delaware State Fire Marshal's Office. At the time of formal submittal, the applicant shall provide; completed application, fee, and three sets of plans depicting the following in accordance with the Delaware State Fire Prevention Regulation (DSFPR):

a. **Fire Protection Water Requirements:**

- Where a water distribution system is proposed for single family dwellings it shall be capable of delivering at least 500 gpm for 1-hour duration, at 20-psi residual pressure. Fire hydrants with 1000 feet spacing on centers are required.
- The infrastructure for fire protection water shall be provided, including the size of water mains.

b. **Accessibility:**

- All premises which the fire department may be called upon to protect in case of fire, and which are not readily accessible from public roads, shall be provided with suitable gates and access roads, and fire lanes so that all buildings on the premises are accessible to fire apparatus. This means that the access road to the subdivision from Fred Hudson Road must be constructed so fire department apparatus may negotiate it.
- Fire department access shall be provided in such a manner so that fire apparatus will be able to locate within 100 ft. of the front door.
- Any dead end road more than 300 feet in length shall be provided with a turn-around or cul-de-sac arranged such that fire apparatus will be able to turn around by making not more than one backing maneuver. The minimum paved radius of the cul-de-sac shall be 38 feet. The dimensions of the cul-de-sac or turn-around shall be shown on the final plans. Also, please be advised that parking is prohibited in the cul-de-sac or turn around.
- If the use of speed bumps or other methods of traffic speed reduction must be in accordance with Department of Transportation requirements.

c. Gas Piping and System Information:

- Provide type of fuel proposed, and show locations of bulk containers on plan.

d. Required Notes:

- Provide a note on the final plans submitted for review to read “ All fire lanes, fire hydrants, and fire department connections shall be marked in accordance with the Delaware State Fire Prevention Regulations”
- Name of Water Supplier
- Proposed Use
- National Fire Protection Association (NFPA) Construction Type
- Maximum Height of Buildings (including number of stories)
- Provide Road Names, even for County Roads

Preliminary meetings with fire protection specialists are encouraged prior to formal submittal. Please call for appointment. Applications and brochures can be downloaded from our website: www.delawarestatefiremarshal.com, technical services link, plan review, applications or brochures.

Department of Agriculture - Contact: Mark Davis 739-4811

A forested buffer is required between the proposed subdivision and all adjacent properties in active agricultural use. In addition, a forest buffer should be maintained for those pre-existing residential properties and along all streams, wetlands, and river that border the proposed subdivision.

The developer should consider a diverse landscape plan that uses Delaware native tree and shrub species and encourages the “Right Tree for the Right Place” concept.

Delaware Emergency Management Agency – Contact: Kevin Kille 653-3362

The entire area under consideration is within the 100-year flood zone, which has a 1% chance of occurrence in any given year. The area is also within the area expected to be inundated by a category-1 hurricane, which has a 5% chance of occurrence in any given year. In the event of an impending coastal storm, residents would be expected to evacuate along route 26.

**Sussex County Planning & Zoning Department –
Contact: Richard Kautz 302-855-7878**

The Sussex County Engineering Department expects payment of the System Connection Charges prior to connection to the sanitary sewer system. Also, the concept plan should be submitted to them to ensure proper alignment for the proposed units as well as the proper alignment of the proposed water lines.

As a non-conforming use the new development will be expected to comply with the

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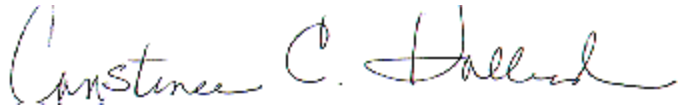
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current General Residential Zoning District density requirements for new development (4 du/ac) or rezone to a zoning district that allows the requested density (12 du/ac).

Following receipt of this letter and upon filing of an application with the local jurisdiction, the applicant shall provide to the local jurisdiction and the Office of State Planning Coordination a written response to comments received as a result of the pre-application process, noting whether comments were incorporated into the project design or not and the reason therefore.

Thank you for the opportunity to review this project. If you have any questions, please contact me at 302-739-3090.

Sincerely,

A handwritten signature in dark ink, appearing to read "Constance C. Holland". The signature is fluid and cursive, with the first name "Constance" being more prominent.

Constance C. Holland, AICP
Director

CC: Sussex County